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Attorneys for Plaintiff Nike, Inc.

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 CLERK, U.S. DISTRICT COURT  
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UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA – EASTERN DIVISION

Nike, Inc.,

Plaintiff,

v.

Eye Catcher, Inc., Thomas Walker and  
 Does 1 through 10, inclusive,

Defendants.

Case No. EDCV07-0488 SGL (OPx)

~~PROPOSED~~ JUDGMENT  
 PURSUANT TO ENTRY OF  
 DEFAULT

This cause having come before this Court on the motion of Plaintiff Nike, Inc. (“Nike” or “Plaintiff”) for entry of default judgment and permanent injunction against Defendants Eye Catcher, Inc. and Thomas Walker (collectively “Defendants”);

AND, the Court having read and considered the pleadings, declarations and exhibits on file in this matter and having reviewed such evidence as was presented in support of Plaintiff’s Motion;

AND, GOOD CAUSE APPEARING THEREFORE, the Court finds the following facts:

Nike owns or controls the pertinent rights in and to the trademarks listed in Exhibit “A” attached hereto and incorporated herein by this reference (The trademarks identified in Exhibit “A” are collectively referred to herein as the “Nike Trademarks”).

All of the Nike Trademarks are current and in full force and effect.

ORIGINAL

1 As a direct result of Nike's longstanding use, sales, advertising and marketing,  
2 the Nike Trademarks have acquired secondary and distinctive meaning among the  
3 public who have come to identify the Nike Trademarks with Nike and its products.  
4 Many of the marks have become incontestable pursuant to 15 U.S.C. § 1065.  
5 Additionally, all of the Nike Trademarks qualify as famous marks pursuant to 15  
6 U.S.C. § 1125.

7 Defendants engage in the manufacture, purchase, distribution, offering for sale  
8 and/or sale of counterfeit and/or infringing footwear bearing the Nike Trademarks to  
9 the general public.

10 Defendants in this action are sellers of counterfeit Nike branded shoes through a  
11 retail outlet located in Moreno Valley, California. Through such active  
12 manufacturing, purchasing, distributing, offering of sale and selling such unlicensed  
13 and counterfeit footwear, Nike is irreparably damaged through consumer confusion,  
14 dilution and tarnishment of its valuable trademarks.

15 Defendants have caused to be imported, distributed, offered for sale and sold  
16 footwear bearing one or more of the Nike Trademarks without the authorization of  
17 Nike. Defendants manufacture, purchase, distribute, offer for sale and sell footwear  
18 and related merchandise bearing the Nike Trademarks in California, and in interstate  
19 commerce has and is likely to cause confusion, deception and mistake or to deceive as  
20 to the source and origin of the footwear and related merchandise in that the buying  
21 public may conclude that the products sold by Defendants are authorized, sponsored,  
22 approved or associated with Nike.

23 Defendants' use in commerce of The Nike Trademarks in the sale of footwear  
24 and related merchandise is an infringement of Nike's registered trademarks in violation  
25 of 15 U.S.C. §§ 1114(1) and 1125.

26 Defendants have profited from their unlawful activities. Unless Defendants'  
27 conduct is enjoined, Nike and its goodwill and reputation will continue to suffer  
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1 irreparable injury which cannot be adequately calculated or compensated solely by  
2 money damages. Accordingly, Nike seeks preliminary and permanent injunctive relief  
3 pursuant to 15 U.S.C. § 1116.

4 Defendants committed the acts alleged in the Complaint intentionally,  
5 fraudulently, maliciously, willfully, wantonly and oppressively with the intent to  
6 injure Nike and its business. Accordingly, Nike is entitled to a judgment of three  
7 times its damages and Defendants' profits, together with reasonable attorneys' fees  
8 pursuant to 15 U.S.C. § 1117(a).

9 The Court specifically finds that Nike is the prevailing party for purposes of an  
10 award of reasonable attorneys' fees. Nike has instituted this action for an entirely  
11 proper and appropriate purpose, solely to vindicate and enforce compliance with its  
12 rights which have been knowingly and willfully infringed by Defendants and to  
13 recover for infringement of such rights. Nike's action was not brought frivolously.

14 The Court further finds that this is an exceptional case in that Defendants  
15 violated Nike's rights by appropriating and featuring the Nike Trademarks on  
16 counterfeit shoes, when Defendants intended, or knew or should have known, that  
17 such infringing activity would likely injure Nike's name and reputation, which  
18 militates in favor of granting Nike an award of attorneys' fees, pursuant to 15 U.S.C. §  
19 1117 (a).

20 The liability of the Defendants in the above-referenced action for their acts in  
21 violation of Nike's rights is knowing and willful, and as such, the Court expressly  
22 finds that there is no just reason for delay in entering the default judgment and  
23 permanent injunction sought herein.

24 Therefore, based upon the foregoing facts, and

25 GOOD CAUSE APPEARING THEREFORE, THE COURT ORDERS that this  
26 Judgment shall be and is hereby entered in the within action as follows:  
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1) This Court has jurisdiction over the parties to this action and over the subject matter hereof pursuant to the provisions of the Lanham Act, 15 U.S.C. § 1051, et seq., as well as 28 U.S.C. § 1338(a) and 28 U.S.C. § 1331.

2) Service of process was properly made on the Defendants.

3) Defendants have made unauthorized uses of the Nike Trademarks or substantially similar likenesses or colorable imitations thereof.

4) Defendants and their agents, servants, employees and all persons in active concert and participation with them who receive actual notice of the Injunction are hereby restrained and enjoined from:

a) Infringing the Nike Trademarks, either directly or contributorily, in any manner, including generally, but not limited to manufacturing, importing, distributing, advertising, selling and/or offering for sale any unauthorized product which features any of the Nike Trademarks ("Unauthorized Products"), and, specifically from:

i) Importing, manufacturing, distributing, advertising, selling and/or offering for sale the Unauthorized Products or any other unauthorized products which picture, reproduce, copy or use the likenesses of or bear a confusing similarity to any of the Nike Trademarks;

ii) Importing, manufacturing, distributing, advertising, selling and/or offering for sale in connection thereto any unauthorized promotional materials, labels, packaging or containers which picture, reproduce, copy or use the likenesses of or bear a confusing similarity to any of the Nike Trademarks;

iii) Engaging in any conduct that tends falsely to represent that, or is likely to confuse, mislead or deceive purchasers, Defendants' customers and/or members of the public to believe, the actions of Defendants, the products sold by Defendants, or Defendants themselves are connected

1 with Nike, are sponsored, approved or licensed by Nike, or are affiliated  
2 with Nike;

3 iv) Affixing, applying, annexing or using in connection with the  
4 importation, manufacture, distribution, advertising, sale and/or offer for  
5 sale or other use of any goods or services, a false description or  
6 representation, including words or other symbols, tending to falsely  
7 describe or represent such goods as being those of Nike.

8 5) Defendants are ordered to deliver for destruction all Unauthorized Products,  
9 including footwear, and labels, signs, prints, packages, dyes, wrappers, receptacles and  
10 advertisements relating thereto in their possession or under their control bearing any of  
11 The Nike Trademarks or any simulation, reproduction, counterfeit, copy or colorable  
12 imitations thereof, and all plates, molds, heat transfers, screens, matrices and other  
13 means of making the same.

14 6) Defendants are ordered to pay damages to Nike pursuant to 15 U.S.C. § 1117 in  
15 the sum of One Hundred Twenty-Five Thousand Dollars (\$125,000.00).

16 7) Defendants are ordered to pay Nike's attorneys' fees and costs in the amount of  
17 Six Thousand One Hundred Dollars (\$6,100.00).

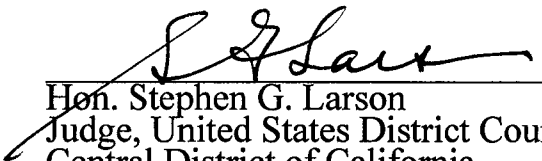
18 8) Defendants are ordered to pay interest on the principal amount of the judgment  
19 to Plaintiff at a statutory rate pursuant to 28 U.S.C. § 1961(a).

20 9) This Judgment shall be deemed to have been served upon Defendants at the  
21 time of its execution by the Court.

22 10) The Court finds there is no just reason for delay in entering this Judgment and,  
23 pursuant to Fed. R. Civ. P. 54(a), the Court directs immediate entry of this Judgment  
24 against Defendants.  
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1 11) The Court shall retain jurisdiction of this action to entertain such further  
2 proceedings and to enter such further orders as may be necessary or appropriate to  
3 implement and enforce the provisions of this Judgment.  
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5  
6 DATED: 12-10-07

  
Hon. Stephen G. Larson  
Judge, United States District Court,  
Central District of California

9 PRESENTED BY:

10 J. Andrew Coombs,  
11 A Professional Corporation

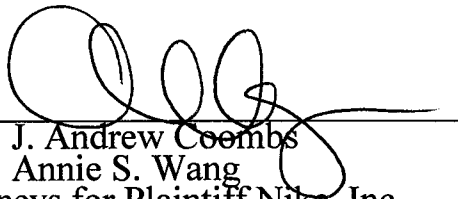
12  
13 By:   
14 J. Andrew Coombs  
Annie S. Wang  
Attorneys for Plaintiff Nike, Inc.  
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EXHIBIT A

## Nike Registrations

<b>Trademark</b>	<b>Registration Number</b>	<b>Registration Date</b>
Nike®	1,277,066	May 8, 1984
Swoosh® Design	1,284,385	July 3, 1984
Nike® and Swoosh® Design	1,237,469	May 10, 1983
Nike Air®	1,571,066	December 12, 1989
Air Jordan® Design	1,742,019	December 22, 1992 (Class 18 and 25)
Just Do It®	1,875,307	January 24, 1995
Nike®	2,196,735	October 13, 1998 (Class 14)
Nike® and Swoosh® Design	2,209,815	December 8, 1998 (Class 14)
AIR-SOLE	1,145,812	January 13, 1981
SWOOSH	1,200,529	July 6, 1982
NIKE	1,214,930	November 2, 1982
NIKE AIR w/Swoosh device	1,284,386	July 3, 1984
NIKE AIR	1,307,123	November 27, 1984
Swoosh device on shoe	1,323,342	March 5, 1985
Swoosh device	1,323,343	March 5, 1985
NIKE w/Swoosh device	1,325,938	March 19, 1985
AIR JORDAN	1,370,283	November 12, 1985
AIR MAX	1,508,348	October 11, 1988
AIR TRAINER	1,508,360	October 11, 1988
Jump Man device	1,558,100	September 26, 1989
AIR SKYLON	1,665,479	November 19, 1991
AIR SOLO FLIGHT	1,668,590	December 17, 1991
AIR FLIGHT	1,686,515	May 12, 1992
AIR DESCHUTZ	1,735,721	November 24, 1992
AIR TRAINER MAX	1,789,463	August 24, 1993
RUNWALK device	1,877,672	February 7, 1995
STARTER	1,896,998	May 30, 1995
NIKE GOLF	1,944,436	December 26, 1995
NIKE REGRIND	2,022,321	December 10, 1996
AIRMAX in oval	2,030,750	January 14, 1997



1	AIR UPTEMPO in crest	2,032,582	January 21, 1997
2	NIKE REGRIND in crest	2,042,940	March 11, 1997
3	AIR with Swoosh device	2,068,075	June 3, 1997
4	NIKE with Swoosh device	2,104,329	October 7, 1997
5	ACG NIKE in triangle	2,117,273	December 2, 1997
6	Stylized "B"	2,476,882	August 14, 2001
7	NIKE ALPHA PROJECT as device	2,517,735	December 11, 2001
8	Ellipses device	2,521,178	December 18, 2001
9	STORM-FIT	2,551,655	March 26, 2002
10	Baseballer silhouette device	2,571,726	May 21, 2002
11	Reverse "Z" in rectangle device	2,584,382	June 25, 2002
12	NIKE GOLF with crest	2,628,587	October 1, 2002
13	WAFFLE RACER	2,652,318	November 19, 2002
14	PHYLITE	2,657,832	December 10, 2002
15	TRUNNER	2,663,568	December 17, 2002
16	DRI-STAR	2,691,476	February 25, 2003
17	BOING	2,735,172	July 8, 2003
18	Swoosh with clubs crest	2,753,357	August 19, 2003
19	PRESTO	2,716,140	May 13, 2003
20	FOOTENT	2,798,233	December 23, 2003
21	FOOTENT in device	2,798,234	December 23, 2003
22	TRIAx	2,810,679	February 3, 2004
23	R9	2,843,275	May 18, 2004
24	WAFFLE TRAINER	2,893,674	October 12, 2004
25	THERMA-STAR	2,960,844	June 7, 2005
26	NIKE SHOX	2,970,902	July 19, 2005
27	STARTER	2,971,216	July 19, 2005
28	Basketball player outline	2,977,850	July 26, 2005
	STAR FLEX	3,002,455	September 27, 2005
	10//2 in rectangle	3,057,889	February 7, 2006
	NIKEFREE	3,087,455	May 2, 2006



**PROOF OF SERVICE**

I, the undersigned, certify and declare that I am over the age of 18 years, employed in the County of Los Angeles, and not a party to the above-entitled cause. I am employed by a member of the Bar of the United States District Court of California. My business address is 517 East Wilson Avenue, Suite 202, Glendale, California 91206.

On October 25, 2007, I served on the interested parties in this action with the:

- NOTICE AND MOTION FOR ENTRY OF DEFAULT JUDGMENT;  
DECLARATIONS AND EXHIBITS IN SUPPORT THEREOF
  - [PROPOSED] ORDER
- [PROPOSED] JUDGMENT PURSUANT TO ENTRY OF DEFAULT  
for the following civil action:

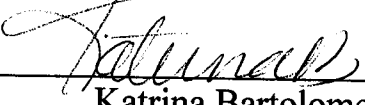
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by placing a true copy thereof in an envelope to be immediately sealed thereafter. I am readily familiar with the office's practice of collecting and processing correspondence for mailing. Under that practice it would be deposited with the United States Postal Service on the same day with postage thereon fully prepaid at Glendale, California in the ordinary course of business. I am aware that on motion of the party served, service presumed invalid if postal cancellation date or postage meter is more than one day after date of deposit for mailing in affidavit.

Eye Catcher, Inc. 24561 Alessandro Blvd. Moreno Valley, CA 92553	Thomas Walker 1724 Lakeview Dr. DeSoto, Texas 75115
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Place of Mailing: Glendale, California

Executed on October 25, 2007, at Glendale, California

  
\_\_\_\_\_  
Katrina Bartolome